United Nations A/C.6/52/SR.32

General Assembly
Fifty-second session

Official Records

Distr.: General
2 March 1998
English
Original: Spanish

Sixth Committee

Summary record of the 32nd meeting
Held at Headquarters, New York, on Wednesday, 19 November 1997, at 10 a.m.

Chairman: Mr. Tomka ..... (Slovakia)

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The meeting was called to order at 10.15 a.m.

Agenda item 149: Report of the Committee on Relations with the Host Country (A/52/26 and A/C.6/52/L.10)

1. **Mr. Zackheous** (Cyprus), speaking as Chairman of the Committee on Relations with the Host Country, introduced the Committee's report contained in document A/52/26, saying that between 22 December 1996 and 13 November 1997, the period covered by the report, the Committee had held 10 meetings and had continued to deal with a wide range of matters of significance to the United Nations diplomatic community and the host country. After reviewing the contents of the report he said that the Committee had continued to be an important forum in which Member States sought to solve problems through a constructive exchange of views. As the newly elected Chairman of the Committee he thanked members, the host country section of the United States Mission and the United Nations Secretariat for their support and cooperation.

2. **Mr. Verweij** (Netherlands), speaking on behalf of the European Union and the associate countries of Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia, said that for 26 years the Committee on Relations with the Host Country had been functioning as a forum for the exchange of views and for negotiation between the United Nations, its Member States and the host country. The Committee had proved to be indispensable for addressing practical issues encountered by representatives of Member States to the United Nations. The resolution of such problems in accordance with the relevant international legal instruments was of great importance as it contributed to the smooth functioning of the United Nations at its Headquarters in New York.

3. The Union was grateful for the attention given by the Committee to the issue of transport, including the establishment of a working group on the subject. It welcomed the combined efforts made by all parties concerned and was particularly appreciative of the helpful legal opinion provided by the Legal Counsel (A/AC.154/307, annex). It acknowledged the steps which the United States Government had taken to establish a revised diplomatic parking programme, although the present situation was not entirely satisfactory. The number of parking fines issued to diplomatic vehicles was reported to have decreased significantly over the past six months. It was important that sufficient parking spaces be provided for diplomatic vehicles. However, the European Union was troubled by the accounts of discriminatory treatment of diplomatic vehicles mentioned in the report. In that connection he recalled the importance of articles IV and V of the Headquarters Agreement of 1947 and of articles 29 to 31 of the Vienna Convention on Diplomatic Relations, concerning inviolability and immunity from criminal, civil and administrative jurisdiction in the receiving State. He expressed the hope that the host country would continue to help meet the concerns of the diplomatic community by bringing such cases to the attention of New York City officials in order to promote compliance with international legal norms concerning diplomatic privileges and immunities.

4. The European Union endorsed the legal opinion presented by the Legal Counsel and reiterated the fundamental principle of article 41 of the Vienna Convention that all persons enjoying diplomatic privileges and immunities must respect the laws and regulations of the host country. At no time should entitlement to diplomatic privileges and immunities, exemptions and facilities be perceived as permission to disregard the laws and regulations of the host country. Accordingly, diplomats should pay their parking fines when tickets were legally issued. At the same time procedures for the payment of parking fines should be entirely voluntary and must not include measures of enforcement.

5. The European Union looked forward to the implementation of a revised programme which would be fair, non-discriminatory, efficient and consistent with international law. It was confident that the host country and Member States would reach an agreement on the matter within an appropriate timeframe. It also welcomed the Committee's recent decision to dispense with its procedural practices so as to permit non-members to participate in meetings on that important topic.

6. Turning to the issue of indebtedness, he said that the European Union appreciated the continued efforts of the working group on indebtedness and that a substantial decrease in indebtedness had been achieved.

7. The Union welcomed the informal meetings with representatives from the health insurance industry and looked forward to the organization of an open-ended meeting for the entire diplomatic community with the prospective providers of health care in December 1997 or January 1998.

8. Finally, he said that the Union supported all the recommendations and conclusions contained in paragraph 118 of the Committee's report.

9. **Mr. Rameez** (Malaysia) noted with satisfaction that the host country continued to guarantee the diplomatic community full enjoyment of the immunities established under international law, specifically under the Vienna Convention on Diplomatic Relations; he agreed that the Convention did not accord diplomats complete freedom to behave as they pleased. They must observe the laws of the country to which they were posted and the immunity they enjoyed was not a license to jeopardize public safety. However, according to part III of the report, cases of harassment and intimidation of diplomats posted in New York by the local police appeared to have increased. Abuses of authority by the police which prevented diplomats from carrying out their functions normally, violated the principles and norms of international law regulating diplomatic privileges and immunities and the provisions of the "Guidance for Law Enforcement Officers" of the United States Department of State. According to the latter, the police should treat diplomats with the greatest respect. His delegation agreed with the various delegations which had spoken of the need to inform the police about the general principles of diplomatic immunity and inviolability in order to avoid a repetition of the incidents referred to in the report.

10. As for the use of automobiles, parking and other related matters, his delegation reiterated that while diplomatic immunity was not a license to disregard the laws of the host country, the diplomatic community should be consulted before programmes that affected it were implemented. In that regard he recalled that at the Committee's 180th meeting the representative of the United States had reiterated his delegation's promise to consult with the Committee before any new parking regulations were introduced. While acknowledging that the use of motor vehicles in the host country was not a right but a privilege and that the privilege could be taken away if it was abused, he said that the host country should provide sufficient parking spaces for the exclusive use of diplomatic vehicles in accordance with the Vienna Convention on Diplomatic Relations. According to the latter the host country must provide all necessary means so as to enable the missions of Member States to carry out their functions. Moreover, an equitable and effective parking programme for the diplomatic community which was compatible with local international law required that city officials avoid discriminatory practices.

11. As to the issue of health insurance, his delegation welcomed the initiative of representatives of several health insurance companies to offer such coverage to the diplomatic community.

12. With regard to the composition of the Committee, he referred to paragraph 5 of General Assembly resolution 2819 (XXVI) of 15 December 1971 and recalled that the Committee's composition had remained unchanged, except for some changes in 1973 and 1976 to fill vacancies caused by the withdrawal of members from the Group of Latin American and Caribbean States and the Group of African States. In view of the significant increase in the membership of the United Nations, from 132 in 1971 to 185 currently, the composition and size of the Committee should be reviewed to ensure better representation of the Member States and greater consideration of issues affecting the diplomatic community. In that connection, his delegation was pleased that paragraph 7 of draft resolution A/C.6/52/L.10 requested the Committee to review its membership.

13. **Mr. Patriota** (Brazil) said that his delegation had participated as an observer in the meetings of the Committee on Relations with the Host Country and had followed with keen interest the discussions concerning the New York City diplomatic parking programme (A/AC.154/305). While his delegation agreed with the intent of the new parking regulations, namely, to prevent the possible abuse of privileges, it believed that proper working conditions must be created for diplomats posted to New York. In that connection, his delegation welcomed paragraph 6 of draft resolution A/C.6/52/L.10 and was glad that the proposed programme had been suspended until appropriate and legally acceptable arrangements could be worked out.

14. His delegation reaffirmed its understanding that any decision on new parking regulations in New York City must be based on the legal opinion provided by the United Nations Legal Counsel (A/AC.154/307, annex) and be consistent with the provisions of the Vienna Convention on Diplomatic Relations, the Convention on the Privileges and Immunities of the United Nations and the Headquarters Agreement, and must also keep in mind the specific characteristics of New York City, which attracted a large number of diplomats, particularly during the regular session of the General Assembly.

15. His delegation trusted that the host Government would continue to look into the matter in a spirit of friendly and constructive cooperation with the diplomatic community.

16. **Mr. Zmeevsky** (Russian Federation) emphasized the importance of the work done by the Committee on Relations with the Host Country for over 25 years in promoting cooperation between the host country and the

diplomatic community. As a result of the efforts of the Committee and the Working Group, some problems had improved, such as diplomatic indebtedness, which had been reduced from US$ 13 million to a little over US$ 2 million. The measures to improve medical coverage for the diplomatic community were also a positive development. The Committee's initiatives in that regard were practical and useful.

17. Unfortunately, there were other issues, such as travel restrictions, on which there had been no improvement for quite a number of years. In its report to the General Assembly at its fiftieth session, the Committee on Relations with the Host Country had noted that, in 1996, travel restrictions had not been lifted on any of the affected Member States. The situation had not improved in 1997. The discrimination practised by the host country was contrary to international law. That problem must be solved as soon as possible, in full compliance with international law and taking into account the current state of international relations.

18. There also had been no progress on the problem of exemption from sales tax. Diplomats were still finding it difficult to obtain such exemption outside New York and Washington, D.C.. The Committee on Relations with the Host Country should look into the problem more closely and the host country should help to solve it quickly.

19. The most difficult problem facing that Committee, however, was the parking of diplomatic vehicles. A dialogue among all the parties concerned was needed that took into account their real interests, the law applicable to diplomatic relations and the obligations of the host country. Attempts to act unilaterally without consulting the diplomatic community would only worsen missions' working conditions, as the New York City diplomatic parking programme (A/AC.154/305) had shown. The establishment of the Working Group to look at all aspects of the problem had been a useful contribution to solving it rationally. The constructive proposals made by a number of delegations during the debates in the Committee and the Working Group must be borne in mind. A number of missions, his own included, had taken costly measures, such as renting garage space, and were doing their best to comply with local laws. As a result, the United States Mission and the New York City authorities had been able to observe a decline in the number of parking tickets issued to diplomatic vehicles. Unfortunately, the New York City authorities had not responded in the same positive spirit. In that connection, he drew the Sixth Committee's attention to paragraph 102 of the report of the Committee on Relations with the Host Country. There continued to be discrimination against diplomatic vehicles; local police often ticketed diplomatic vehicles unfairly while turning a blind eye to local vehicles parked in diplomatic parking spaces and, as the report indicated, police had sometimes acted rudely or very violently. Lastly, his Government was grateful for the measures taken by the United States Mission to try and solve the problem and offered its cooperation in restoring a climate of normality based on mutual respect.

20. **Mr. Syargeeu** (Belarus), referring to the problem of diplomatic parking in New York City, said that under the Vienna Convention on Diplomatic Relations of 1961, States' diplomatic representatives were required to obey the laws of the host country, but host countries were also required to refrain from taking coercive measures to enforce those laws. His delegation believed that a new diplomatic parking system should be established that was compatible with the rules of international law and took into account diplomatic privileges and immunities. In that connection, he recalled the recommendation made in the report of the Committee on Relations with the Host Country (A/52/26) as to the measures which the New York City Council and the authorities of the host country could take by mutual agreement to solve the diplomatic parking problem.

21. **Ms. Cueto** (Cuba) said that her delegation had informed the Committee on Relations with the Host Country repeatedly that the Permanent Mission of Cuba and its staff were being constantly subjected to discriminatory treatment by the host country, for reasons of bilateral policy that had nothing to do with that country's obligations as the headquarters of an international organization of sovereign States. Her delegation condemned any disruption of the normal functioning of missions accredited to the United Nations and any attack on their security, as well as any violation of the privileges and immunities applicable to both the property and the staff of those missions.

22. With regard to the travel restrictions applied by the host country, Cuba reiterated its demand that the 25-mile limit imposed on the staff of certain missions, including Cuba's, and on Secretariat staff of certain nationalities be lifted and that the host country thereby fulfil its obligations under the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations.

23. The problem of diplomatic parking must be solved satisfactorily, without discrimination and in keeping with international law and universally recognized diplomatic privileges and immunities. She therefore endorsed the

recommendations made by the United Nations Legal Counsel in that regard.

24. It was regrettable, however, that the host country should continue to resort to unilateral and biased measures which were contrary to the real will of the majority of the members of the Committee on Relations with the Host Country and the aspirations of the majority of States Members of the Organization. It was clear that, in general, the decisions of the host country and its local authorities prevented the Committee from duly carrying out the functions entrusted to it by the General Assembly. In that connection, she hoped that the winds of change which were blowing through the United Nations would also reach the Committee on Relations with the Host Country, since its current membership and structure no longer responded to the interests of the States Members of the Organization or to the latter's needs. Moreover, the Committee's working methods were obsolete, lacking in transparency and anti-democratic; although in theory the Committee acted by consensus, it was a fictitious consensus since the host country could always threaten to veto any decision which was supposedly detrimental to its interests. In that connection, her delegation had learned during the informal consultations that a draft resolution had been prepared on the report of the Committee on Relations with the Host Country in which the Committee was asked to review its own membership and to report on the results to the General Assembly at its fifty-third session. Despite the good intentions of the draft resolution, her delegation disagreed with the formula proposed since it was her understanding that the Committee did not have the authority to change its own membership; that authority lay with the General Assembly, of which it was a subsidiary organ. In support of her argument, she pointed out that it was the General Assembly itself, in its resolution 2819 (XXVI) of 15 December 1971, which had decided to establish the Committee and had requested the President of the General Assembly to select its 14 Member States in consultation with regional groups and taking into consideration equitable geographical representation. Accordingly, any decision regarding a change in the membership of the Committee on Relations with the Host Country was a matter, in the first place, for Member States and the General Assembly and should be taken in accordance with the rules of procedure of the General Assembly. In that connection, there was the precedent of the Special Committee on the Charter of the United Nations and of the Special Committee on Peacekeeping Operations, which had been converted into organs with open-ended membership by decision of the General Assembly.

25. **Ms. Willson** (United States of America), replying to the delegation of Cuba, said that her country had at all times met its obligations as host country and that it would continue to do so in the future. For the United States, the security of the Mission of Cuba was a priority matter: the Mission was protected by police personnel and by permanent security measures; moreover, persons who threatened its security were always detained.

26. On the question of diplomatic indebtedness, she said that, thanks to the work done by the Committee on Relations with the Host Country in recent years, the debt of the diplomatic missions had been considerably reduced.

27. With regard to the problem of the parking of diplomatic vehicles, she repeated that the appropriate forums for resolving the problem were the Committee on Relations with the Host Country and its working group on parking, in which constructive ideas had already been suggested, for example the idea put forward by the representative of Malaysia that the New York City police should be given special courses on diplomatic privileges and immunities. The United States had already been in contact with the Police Academy of New York City with a view to organizing the preparations for such courses.

28. Moreover, the host country was continuing to work on drawing up a plan for the parking of diplomatic vehicles which would meet the needs of both the diplomatic community and the other residents of New York City and which would be compatible with the legislation of the host country and with the rules of international law.

29. Lastly, with regard to a change in the membership of the Committee, her delegation was in favour of retaining its current membership, since that enabled it to work more efficiently; moreover, the fact that all delegations were able to participate in the Committee's work as observers contributed to the transparency of its work and met the needs of all parties.

30. **Mr. Zackheous** (Cyprus), on behalf also of Bulgaria, Canada, Costa Rica and Côte d'Ivoire, introduced draft resolution A/C.6/52/L.10 on the report of the Committee on Relations with the Host Country. In the draft resolution, the General Assembly recognized that effective measures should continue to be taken by the competent authorities of the host country, in particular to prevent any acts violating the security of missions and the safety of their personnel. It noted that during the reporting period the travel controls previously imposed by the host country on staff of certain missions and staff members of the Secretariat of certain nationalities had remained in effect, once again urged the host country to consider lifting such

travel controls, and, in that regard, noted the positions of the affected States, of the Secretary-General and of the host country. It called upon the host country to review measures and procedures relating to the parking of diplomatic vehicles, with a view to responding to the growing needs of the diplomatic community, and to consult with the Committee on those issues, and it considered it important that any new parking regulations to be proposed by the host country to the diplomatic community should be worked out in consultation with the Committee on Relations with the Host Country and that such regulations should be fair, balanced, non-discriminatory, in accordance with local and international law and with due regard for diplomatic privileges and immunities. Furthermore, in the draft resolution, the General Assembly would for the first time request the Committee on Relations with the Host Country to review its membership and to report at the fifty-third session on the results of its deliberations in the Sixth Committee.

31. In short, the draft resolution covered the main topics which had been the focus of attention in the Sixth Committee – transportation, the use and parking of motor vehicles, host country travel regulations, the security of missions accredited to the United Nations, and the membership of the Committee on Relations with the Host Country – and urged, above all, that the outstanding questions should be resolved in a spirit of cooperation and in accordance with international law.

Agenda item 150: Establishment of an international criminal court (*continued*) (A/C.6/52/L.16)

Draft resolution A/C.6/52/L.16

32. **Mr. Wilbert** (Germany) introduced draft resolution A/C.6/52/L.16 and explained that the text was based on a draft prepared originally by the delegation of Italy in cooperation with the delegations of Denmark, the Netherlands and South Africa. He read out the operative part of the draft resolution and indicated two corrections which had been made to the text. In paragraph 8, the word "to" should be inserted after the word "invite" in the English text so that the sentence would read: "*Also requests* the Secretary-General to invite to the Conference ...". In addition, in footnote 3, a reference should be added to General Assembly resolution 51/204, by which the General Assembly granted observer status to the International Tribunal for the Law of the Sea. Thus, the end of the footnote should read: "51/1, 51/6 and 51/204".

33. He pointed out that the text took into account various, often conflicting, views on the difficult procedural matters involved in the project. He expressed appreciation for the cooperation, flexibility and creativity shown by delegations in the consultations. Lastly, he said he hoped that the Committee would adopt the draft resolution without a vote.

34. **Mr. Lee** (Secretary of the Committee) said that he wished to clarify a number of points concerning operative paragraph 3, 4 and 9. The conference referred to in paragraph 3 had been included in the proposed programme budget for the biennium 1998-1999 on the assumption that it would be held in New York and on the understanding that the number of meetings and their distribution would be similar to the pattern of previous years. Since the Conference was to be held in Rome from 15 June to 17 July, Italy would bear the additional cost. As a result, should the General Assembly adopt the draft resolution, paragraph 3 would not give rise to the appropriation of additional resources. With regard to paragraph 4, in which the Secretary-General was requested to provide for consultations on the organization and methods of work of the Conference, the secretariat had requested provision for consultations for two days, and had been informed that owing to the volume of work interpretation services would be provided only as available. Since interpretation services might not be available on 12 and 13 March, just before the Preparatory Committee's final session, interpretation services had been requested; the services would cost $89,600 and could be charged to the resources appropriated for the biennium 1998-1999. Thus, should the General Assembly adopt the draft resolution, no additional appropriation would be requested for those two days of consultations. With regard to paragraph 9, which referred to inviting non-governmental organizations to the Conference, he wished to explain that the Preparatory Committee, as a subsidiary organ of the General Assembly, did not have the power to accredit non-governmental organizations. In practice, an informal working relationship had been set up with a group of non-governmental organizations known as the Coalition of Non-Governmental Organizations for the Establishment of an International Criminal Court. The secretariat intended to implement paragraph 8 with the assistance of the Coalition in making invitations and facilitating participation by non-governmental organizations in the Conference. To that end, it would request the Coalition to provide a list of the organizations that would participate, taking into account the provisions of part VII of Economic and Social Council resolution 1996/31. That practical solution was necessary owing to the limited capacity of the facilities at FAO headquarters. The secretariat would transmit information

to the Coalition as it received it from the competent authorities in Rome.

35. **Mr. Dahab** (Sudan), referring to operative paragraph 9, asked whether the list of non-governmental organizations that would participate in the Conference had been drawn up yet and what role the Coalition of Non-Governmental Organizations would play.

36. **Mr. Lee** (Secretary of the Committee), responding to the question posed by the representative of the Sudan, said that the list had not yet been drawn up, and the secretariat would proceed in the manner he had just indicated.

37. **The Chairman** invited the Committee to consider draft resolution A/C.6/52/L.16. He said that, if he heard no objection, he would take it that the Committee wished to adopt the draft without a vote.

38. *Draft resolution A/C.6/52/L.16 was adopted without a vote.*

39. **The Chairman** said that the Committee had thus completed consideration of agenda item 150.

Agenda item 144: Convention on jurisdictional immunities of States and their property (*continued*) (A/C.6/52/L.18)

Draft resolution A/C.6/52/L.18

40. **The Chairman** invited the Committee to consider draft resolution A/C.6/52/L.18. He said that, if he heard no objection, he would take it that the Committee wished to adopt the draft without a vote.

41. *Draft resolution A/C.6/52/L.18 was adopted without a vote.*

42. **The Chairman** said that the Committee had thus completed consideration of agenda item 144.

Agenda item 147: Report of the International Law Commission on the work of its forty-ninth session (*continued*) (A/C.6/52/L.15 and Corr.1)

Draft resolution A/C.6/52/L.15 and Corr.1

43. **Mr. Rao** (India), introducing the draft resolution, said that he wished to place on record his gratitude to all the delegations that had participated in the informal consultations, particularly because of the spirit of cooperation and conciliation that they had shown. Paragraph 4, which contained a tricky element where reservations to multilateral treaties were concerned, had been revised in accordance with the proposals put forward by a number of delegations, as reflected in document A/C.6/52/L.15/Corr.1. Paragraphs 10 and 11 dealt with organizational matters. Paragraph 10 concerned the question of split sessions, which had not been well received by the International Law Commission, and paragraph 11 concerned the duration of the Commission's future sessions, including its 1988 session. Those paragraphs had programme budget implications, as set out in document A/C.6/52/L.20. Paragraphs 13 and 14 introduced new elements compared with earlier resolutions on the International Law Commission. In view of the spirit of consensus in which the draft had been prepared, he hoped that the Committee would adopt it by consensus.

44. **The Chairman** drew the Committee's attention to document A/C.6/52/L.20 setting out the programme budget implications of draft resolution A/C.6/52/L.15 and Corr.1.

45. He then announced that a separate vote had been requested on operative paragraphs 10 and 11 of the draft resolution; he therefore requested delegations wishing to vote in favour of those paragraphs to so indicate by a show of hands.

46. **Ms. Ladgham** (Tunisia) and **Mr. Holmes** (Canada) said that they wished to speak on a point of order.

47. **The Chairman** said that no points of order could be raised because the voting had begun.

48. *A separate vote was taken on paragraphs 10 and 11 of draft resolution A/C.6/52/L.15 and Corr.1.*

49. *Paragraphs 10 and 11 of draft resolution A/C.6/52/L.15 and Corr.1 were adopted by 76 votes to 1, with 9 abstentions.*

50. **Ms. Wong** (New Zealand), explaining her delegation's position after the vote, said that her delegation had abstained in the vote because it had been unaware that there was going to be a vote. She wished to know why there had been a vote and which delegation had requested it. Her delegation would have liked to have been informed earlier that there was going to be a vote, so as to have the necessary time to obtain instructions. Moreover, she wished to point out that it was very unusual to vote on a draft resolution concerning the International Law Commission; such resolutions were adopted by consensus each year.

51. **The Chairman** said that he hoped that the draft resolution as such would be adopted as proposed by the representative of India, without a vote.

52. **Ms. Willson** (United States of America) said that her delegation had thought it necessary to take a separate vote on those paragraphs. The United States strongly supported the International Law Commission and appreciated its

efforts to enhance its efficiency and effectiveness. However, her delegation was concerned by the financial implications of the Commission's proposals in respect of its 1998 and 1999 sessions. For that reason her delegation had voted against paragraphs 10 and 11 of draft resolution A/C.6/52/L.15. Although it recognized that the Commission considered the arrangements for its 1998 session to be necessary to accommodate an important codification conference, the financial implications of the proposal were unacceptable. Moreover, her delegation believed that the 1999 session should be 10 weeks long, as foreseen in the present budget. However, in order to demonstrate its support for the Commission and its work, it would not object to the resolution being adopted without a vote.

53. **Mr. Rameez** (Malaysia) said that his delegation concurred with the view of the representative of New Zealand in the sense that more time was needed to obtain instructions from capitals. His delegation therefore reserved its right to state its position when the matter was taken up by the General Assembly.

54. **Ms. Baykal** (Turkey) said that her delegation, like those of New Zealand and Malaysia, had not been informed that a separate vote would be taken on those two paragraphs of the draft resolution. Moreover, the representative of Tunisia had to speak on a point of order and, in accordance with rule 88 of the rules of procedure of the General Assembly, it was her turn to speak.

55. **Ms. Ladgham** (Tunisia) said that rule 88 of the rules of procedure of the General Assembly stated that "after the President has announced the beginning of voting, no representative shall interrupt the voting except on a point of order in connection with the actual conduct of the voting", which had in fact been her intention.

56. **The Chairman** said that, in accordance with rule 128 of the rules of procedure, that right did indeed exist, but he had not been told that the point of order raised by the representative of Tunisia was in connection with the actual conduct of the voting.

57. **Mr. Herasymenko** (Ukraine) said that his delegation had also abstained for procedural reasons, and that he agreed with the comments made by the representative of New Zealand. His delegation also reserved the right to state its position on the issue when the matter was put to a vote in plenary meeting.

58. **Mr. Pham Truong Giang** (Viet Nam) said that his delegation shared the view expressed by the representative of New Zealand since it had been unaware that a separate vote would be taken on paragraphs 10 and 11 of the draft. It therefore reserved its right to return to the issue when the matter was taken up in plenary meeting. It also shared the view of the representatives of Turkey and Tunisia on the point of order.

59. **Mr. Holmes** (Canada) said that his delegation shared the concern expressed by the representatives of New Zealand, Turkey, Tunisia and others regarding the fact that the Committee had voted without knowing what the vote was about or what it meant, and for that reason his delegation had also asked to speak on a point of order. As the representative of Turkey had pointed out, rule 88 of the rules of procedure of the General Assembly permitted a point of order to be raised with respect to the actual conduct of the voting. His delegation believed that the phrase "actual conduct of the voting" should be interpreted to include exactly what the vote was about and the significance of voting either for or against.

60. With regard to the substance of the matter, he said that his delegation had abstained because it shared the concerns about the financial implications of paragraphs 10 and 11 of the draft, and also because it had not been entirely clear as to the procedure being followed.

61. Regarding the Chairman's clarification on the interpretation of rule 88 of the rules of procedure, his delegation believed that the problem could have been resolved if the Committee had not so hastily taken a vote, and a vote might even have been avoided if delegations had been allowed more time to consider the matter and obtain specific instructions. The current situation certainly did not reflect the manner in which the representative of India had handled the informal consultations; he had made admirable efforts to bring about a consensus on the resolution, but in view of the financial implications arising from paragraphs 10 and 11 of the draft, all members of the Committee, including its officers, should have taken stronger action to avoid the regrettable outcome which had just occurred.

62. **Mr. Grainger** (United Kingdom of Great Britain and Northern Ireland), speaking in explanation of position, said that his delegation had abstained in the vote because it understood that there were financial implications and because it had not had sufficient time to consider the relevant statement (A/C.6/52/L.20). His delegation's abstention had nothing to do with the United Kingdom's attitude towards the International Law Commission, which it strongly supported. In other respects, his delegation shared the view of the representative of Canada, particularly the appreciation of the work done by the representative of India and the able manner in which the latter had chaired the informal consultations on the issue.

63. **Ms. Escarameia** (Portugal) said that her delegation associated itself with the comments made by the representatives of New Zealand, Turkey, Tunisia and Canada. As others had pointed out, it was very unusual for the Sixth Committee to take a vote, and even more unusual for it to vote on a resolution relating to the International Law Commission. It was also unusual for it to vote without being apprised of the issues beforehand, and when delegations had been given under 24 hours to consider the programme budget implications of the draft resolution, as contained in document A/C.6/52/L.20.

64. Her delegation had seen the representatives of Tunisia and Canada ask to speak on a point of order, and regretted that their concerns had not been taken into account, especially since the Sixth Committee was a legal committee and, as such, should be the first to uphold the rules of procedure of the General Assembly. Moreover, rule 128 was very explicit.

65. Her delegation also had misgivings about the accuracy of the results of the voting, since only 86 votes had been counted and it seemed to her that there were more than 86 delegations in the room.

66. **The Chairman** said that, with regard to the accuracy of the results of the voting, he had requested the secretariat to count the votes and the results he had announced had been based on the information provided by the secretariat; for that reason he trusted that the information was correct. Moreover, he had indicated clearly that a separate vote would be held on paragraphs 10 and 11 of the draft resolution.

67. **Mr. Gramajo** (Argentina) said that although his delegation had voted in favour of the draft resolution, and in view of the confusion that had arisen in connection with the significance of the vote, his delegation wished to reserve its position for when the issue was discussed in plenary meeting.

68. **Ms. Sinjela** (Zambia) said that her delegation associated itself with the comments made by the representatives of Portugal, Canada, Turkey and Tunisia.

69. **Ms. Wong** (New Zealand) requested a copy of the outcome of the vote in order to have a list showing how various delegations had voted.

70. **Mr. Lee** (Secretary of the Committee) said that the vote had also taken him by surprise, and had he known about it beforehand he would have asked for a conference room equipped with an electronic voting machine. The count had been carried out by four Secretariat officials; since the result did not reflect the total number of delegations present, it was probably the case that some delegations had not voted. The secretariat had not made a note of how each delegation had voted because it was not a recorded vote.

71. **Ms. Wong** (New Zealand) asked whether the explanations of vote and the voting would be reflected in the summary record, in other words, whether the Committee had been acting on a formal or an informal basis.

72. **The Chairman** said that the meeting was a formal meeting and that the corresponding summary record would be issued as the official document of the meeting. Moreover, the press release issued for each formal meeting of the Sixth Committee would contain information.

73. He invited the Committee to take action on draft resolution A/C.6/52/L.15.

74. **Mr. Juárez** (Mexico) said that his delegation would join in the consensus on draft resolution A/C.6/52/L.15 and its corrigenda as a demonstration of its support for the work of the International Law Commission. However, there were elements in the text that should have undergone further analysis and might cause confusion. Mexico believed that the treaty bodies referred to in paragraph 4 of the draft resolution should have only those powers that were expressly conferred on them by the treaties that had established them and that they should not exceed their jurisdiction. His delegation therefore believed that the present wording of paragraph 4 of draft resolution A/C.6/52/L.15 and its corrigenda should not be interpreted as an explicit or implicit modification of the powers of the treaty bodies.

75. **Mr. Herasymenko** (Ukraine) asked whether the Committee was taking action on draft resolution A/C.6/52/L.15 without paragraphs 10 and 11.

76. **The Chairman** said that the Committee was taking action on the entire draft, including paragraphs 10 and 11.

77. **Mr. Rao** (India) clarified that the Committee was taking action on draft resolution A/C.6/52/L.15 in its entirety. In keeping with the spirit of the informal consultations, he reiterated the recommendation that the draft resolution be adopted without a vote.

78. **Ms. Alvarez Nuñez** (Cuba) said that, although she would join in the adoption of the draft resolution, she felt that it contained elements, such as the alleged authority of treaty bodies to comment on the admissibility of reservations entered by Member States (paragraph 4), which required further negotiation and study.

79. **The Chairman** said that, if he heard no objection, he would take it that the Committee wished to adopt draft resolution A/C.6/52/L.15 and Corr.1 and Corr.2 (Russian only) without a vote.

80. *Draft resolution A/C.6/52/L.15 and Corr.1 and Corr.2 (Russian only) was adopted without a vote.*

81. **The Chairman** said that the Committee had concluded it consideration of agenda item 147.

Agenda item 145: United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law *(continued)* (A/C.6/52/L.17 and Corr.1)

82. **The Chairman** said that Côte d'Ivoire, Cyprus, Ethiopia, Germany, Iran (Islamic Republic of), Malaysia, Nigeria, Trinidad and Tobago and Ukraine had become sponsors of draft resolution A/C.6/52/L.17.

83. **Mr. Tankoano** (Niger) said that his delegation wished to be added to the list of sponsors of the draft resolution.

84. **The Chairman** said that the Secretariat had duly noted Niger's request. If he heard no objection, he would take it that the Committee wished to adopt draft resolution A/C.6/52/L.17 and Corr.1 without a vote.

85. *Draft resolution A/C.6/52/L.17 and Corr.1 was adopted without a vote.*

86. **The Chairman** said that the Committee had concluded its consideration of agenda item 145.

Agenda item 152: Measures to eliminate international terrorism *(continued)* (A/C.6/52/L.13*, L.19, L.21 and L.22)

87. **Mr. Holmes** (Canada), reporting on the results of the informal consultations which he had chaired on the draft resolution presented by Costa Rica on measures to eliminate international terrorism (A/C.6/52/L.13*), said that the consultations had been held at the request of some delegations that had wished to comment on the draft International Convention for the Suppression of Terrorist Bombings that was annexed to the draft resolution. The draft Convention was the result of intense negotiations in the Ad Hoc Committee and the Working Group of the Sixth Committee. It was a positive, balanced document and it was unlikely that prolonging the negotiations would have improved the text. There was only one issue outstanding in the draft Convention, namely, article 3. The Costa Rica draft provided a compromise solution for that article which had not been negotiated or debated in any formal or informal meeting of the Sixth Committee. In the informal consultations, delegations had been asked to focus on the provisions of the draft which made up the main commitment: the Eleventh preambular paragraph, as amended, Corrigendum 1 and articles 1, 4, and 19. To sum up, the outcome of the informal consultations was that: any change in draft resolution A/C.6/52/L.13* would have to be submitted to the sponsor or the co-sponsors; the majority of delegations were in favour of adopting the draft Convention in its current form, without changes; and, lastly, if the debate on the draft Convention was reopened, some delegations would propose specific amendments.

88. **The Chairman** drew the Committee's attention to document A/C.6/52/L.19, which contained the amendments to draft resolution A/C.6/52/L.13* proposed by Pakistan.

89. **Mr. Akbar** (Pakistan), referring to the outcome of the informal consultations on draft resolution A/C.6/52/L.13*, which was sponsored by Costa Rica and had just been introduced by the chairman of the consultations, pointed out that, so far, the Sixth Committee had not had an opportunity to consider the draft Convention. It should therefore be given time to study the draft, particularly its most controversial article, article 3, in order to arrive at a consensus on the very important issue of measures to eliminate international terrorism. The Ad Hoc Committee and the Working Group of the Sixth Committee should continue their consideration of the draft at the next session.

90. **Mr. Obeid** (Syrian Arab Republic) said that, in the consultations held the previous Monday, many positive proposals had been made in an attempt to fill in the gaps in the draft International Convention for the Suppression of Terrorist Bombings contained in draft resolution A/C.6/52/L.13*, but that those proposals had not been considered for lack of time. The draft required more thorough examination, since it referred to issues of vital importance for his delegation. In that connection, the comments made by the representative of Pakistan were very useful.

91. **Ms. Ekemezie** (Nigeria) asked the Chairman to explain what changes had been made in the new version of document A/C.6/52/L.13, which had been reissued for technical reasons.

92. **Mr. Dahab** (Sudan) drew the attention of members of the Committee to the fact that the draft resolution under consideration was the only one with a title in which the concept of "terrorism" was explicitly mentioned, although that concept had not yet been clearly defined. It was important therefore to reach agreement on what was meant

by "terrorism", since that would ensure more universal acceptance of the Convention and make it more effective. Moreover, his delegation agreed with others that the draft resolution under consideration had many shortcomings and needed to be revised with greater care. In that connection, he pointed out that in paragraph 13 of its resolution 51/210 of 17 December 1996, the General Assembly had recommended that the Ad Hoc Committee should be convened in 1998 to continue its work on the draft International Convention for the Suppression of Terrorist Bombings.

93. **Ms. Gao Yunping** (China) said that there had not been enough time to hold the informal consultations necessary to finish drafting the International Convention for the Suppression of Terrorist Bombings. That was why the draft submitted to the Sixth Committee was incomplete, since it had not been possible to conclude the negotiations on the subject and on the proposals submitted by various States. The Sixth Committee was not a negotiating body; it only considered the reports of the Working Group and of the Secretary-General. Accordingly, her delegation had proposed during the general debate that the Ad Hoc Committee should consider the subject of the Convention the following year, as a matter of priority, with a view to the earliest possible adoption of that important document.

94. Her delegation's position with regard to terrorism was clear and had always been consistent; it therefore supported the speedy adoption of the draft Convention. It regretted, however, that some sensible suggestions had not been duly considered since that would, in the short term, affect acceptance of the Convention and could, in the long term, affect its practical implementation. Lastly, she requested that the observations which had been made should be included in the summary records.

95. **Mr. Hamdan** (Lebanon) expressed his delegation's deep concern that in the discussions on such an important subject there could be two sides - those in favour and those against. The fight against terrorism was a topic which was of concern to all States.

96. In order to complete the drafting of an International Convention for the Suppression of Terrorist Bombings, it was important to reach full agreement among delegations so that they would all feel satisfied about the purposes it was hoped to achieve. Unfortunately, there appeared to be an atmosphere in which some delegations were demonstrating a categorical attitude in their proposals; that delayed progress in the collective work which had to be done.

97. His delegation recognized that great efforts had been made in order to reach the current stage. It had always cooperated and had attempted to achieve the greatest measure of consensus possible in favour of the draft Convention. It therefore believed that the observations of those delegations which had spoken should be taken duly into account and that the outstanding questions should be considered, since many topics were still a matter of concern to a number of delegations. It was important to meet those concerns, which were legitimate.

98. **Ms. Alvarez Nuñez** (Cuba) said that her delegation had participated in the negotiations on a draft International Convention for the Suppression of Terrorist Bombings in a constructive spirit. In that connection, she had hoped that the request made by a group of delegations that more time should be allowed to continue the negotiations on the draft so that the text would cover the interests of all Member States would be taken into account. That request, however, had been rejected and the Sixth Committee now found itself in the position of having to take action on the draft Convention.

99. Her delegation unequivocally condemned all terrorist acts and practices in all their manifestations, wherever they were committed, and insisted on the need to identify the responsibility of those States which organized, encouraged, supported, financed and were accessories to terrorist acts against other States. For over 30 years, the Government and people of Cuba had been the victims of terrorist attacks of various kinds. The country had been subjected to a persistent terrorist crusade aimed at undermining its political, economic and social system. The crusade had been reinforced by campaigns orchestrated from outside the country with a view to exonerating those who had committed such acts from all responsibility, even when those responsible had been tried and condemned in accordance with Cuba's legislation and criminal procedure safeguards.

100. Her delegation attached importance to the efforts which had been made, particularly within the United Nations, to combat international terrorism; those efforts had, however, been insufficient, since they had approached the phenomenon in a selective and biased manner without formulating any precise definitions.

101. In the Sixth Committee and the Ad Hoc Committee, proposals had been put forward and positions stated which were based on all kinds of evasions and legal subterfuges with a view to ensuring the prevalence of an approach of one-sided condemnation of international terrorism and terrorist acts. The draft Convention submitted for adoption

in no way constituted the agreed expression of the position of all Member States on the subject. For example, various States insisted on excluding or legitimizing, within the scope of the Convention, the acts of States which used their armed forces or measures of coercion and political, ideological and economic pressure to destabilize independent and sovereign States. The draft Convention did not include the necessary reaffirmation of the right of peoples to self-determination and independence and to fight against foreign occupation. Moreover, it did not define a terrorist act in itself. It concentrated on qualifying and emphasizing the potential magnitude of the damage which such acts could cause. The draft Convention included provisions on extradition which could prove polemical and could not be considered to be the result of a genuine process of harmonization of the internationally recognized standards and the practice of States in that area.

102. The international community had been called upon to participate in the negotiation and adoption of new international legal instruments on the subject. There were, however, States which were parties to such instruments while terrorists and terrorist organizations which committed acts against other sovereign States with full impunity were based in their territory. That was detrimental to the legitimacy, credibility and effectiveness of cooperation between States to combat international terrorism.

103. Her delegation reiterated its readiness to continue its efforts to ensure greater participation in international legal instruments on the subject, and would insist that the United Nations should give detailed consideration to the causes and consequences and the necessary definition of international terrorism in all its forms and manifestations. Moreover, it would continue to advocate, together with those States whose interests and positions had not been reflected in the draft Convention, the adoption of future international legal instruments which would deal with international terrorism in a realistic and impartial manner.

The meeting rose at 1.05 p.m.